

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE – COOKEVILLE DIVISION**

IN RE:

DWIGHT DAVID SHEPHERD
xxx-xx-5610
92 HARRIS HOLLOW RD
PLEASANT SHADE, TN 37145

DEBTOR.

CASE NO. 12-08208-RM2-7
CHAPTER 7
JUDGE Randal S. Mashburn

**THE DEADLINE FOR FILING A TIMELY RESPONSE IS: 4/25/13
IF A RESPONSE IS TIMELY FILED, THE HEARING WILL BE: 5/23/13, 9:30 A.M.,
L. CLURE FEDERAL BUILDING, 9 BROAD STREET, COOKEVILLE, TN 38501**

NOTICE OF MOTION OF TRUSTEE TO SELL PROPERTY

John C. McLemore, Trustee, has asked the court for the following:

Permission of the Court to sell property for the benefit of the bankruptcy estate in the above-styled matter.

YOUR RIGHTS MAY BE AFFECTED. If you do not want the Court to grant the attached motion, or if you want the Court to consider your views on the motion, then on or before 4/25/13, you or your attorney must:

1. File with the Court your response or objection explaining your position. **PLEASE NOTE: THE BANKRUPTCY COURT FOR THE MIDDLE DISTRICT OF TENNESSEE REQUIRES ELECTRONIC FILING. ANY RESPONSE OR OBJECTION YOU WISH TO FILE MUST BE SUBMITTED ELECTRONICALLY. TO FILE ELECTRONICALLY, YOU OR YOUR ATTORNEY MUST GO TO THE COURT WEBSITE AND FOLLOW THE INSTRUCTIONS AT: <https://ecf.tnmb.uscourts.gov>.**

If you need assistance with Electronic Filing you may call the Bankruptcy Court at (615) 736-5584. You may also visit the Bankruptcy Court in person at: U.S. Bankruptcy Court, 701 Broadway, 1st Floor, Nashville, Tennessee (Monday – Friday, 8:00 a.m. – 4:00 p.m.).

2. **Your response must state that the deadline for filing responses is 4/25/13, the date of the scheduled hearing is 5/23/13 and the motion to which you are responding is *Motion of Trustee to Sell Property*.**
3. You must serve your response or objection by electronic service through the Electronic Filing system described above. You must also mail a copy of your response or objection to:

John C. McLemore, Trustee
P. O. Box 158249
Nashville, TN 37215-8249

United States Trustee
701 Broadway, Customs House Suite 318
Nashville, TN 37203

If a timely response is filed before the deadline stated above, the hearing will be held at the time and place indicated above. ***THERE WILL BE NO FURTHER NOTICE OF THE HEARING DATE.*** You may check whether a timely response has been filed by calling the Clerk's office at (615) 736-5584 or viewing the case on the Court's website at www.tnmb.uscourts.gov.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

This 4th day of April, 2013.

Respectfully submitted,

/s/ John C. McLemore, Trustee
John C. McLemore, Trustee
Tn. Bar No. 3430
P.O. Box 158249
Nashville, TN 37215-8249
(615) 383-9495 (phone)
(615) 292-9848 (fax)
jmclmore@gmylaw.com

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MOTION OF THE TRUSTEE TO SELL PROPERTY

The Trustee, John C. McLemore, moves the Court for the entry of an order authorizing him to proceed with the private sale of a survivorship interest in real estate which is property of the estate.

Property Description: Debtor's survivorship interest in house and 24.43 acres more or less at 92 Harris Hollow Road, Pleasant Shade, Smith County, Tennessee.

Proposed Buyer: Citizens Bank, 407 Main St., Carthage, TN 37030

Sale Price: \$2,000.00.

The proposed purchaser is both a secured and an unsecured creditor.

This sale is in the best interest of this estate because it is being accomplished without the assistance of an agent or auctioneer. A survivorship interest is an unusual asset. The buyer is in essence placing a \$2,000 wager that the Debtor's spouse will predecease the Debtor. If that occurs, the real estate will pass to the buyer in fee simple upon the buyer's paying any homestead exemption the Debtor may be due at that time. If the Debtor predeceases his spouse, the real estate will pass to the spouse and the buyer will receive nothing. A purchase price of \$2,000.00 is the least the Trustee will accept for a survivorship interest.

It is the opinion of the Trustee that this is the best outcome for the estate.

A minimum upset bid of \$500.00 will be accepted. The bid may be entered by notifying the Trustee in writing or by email. An upset bid may also be entered by filing an objection to sale with the Court which states the objecting party is increasing the bid by at least \$500.00.

Unless an objection and application for hearing is filed with the United States Bankruptcy Clerk, First Floor Customs House, 701 Broadway, Nashville, Tennessee 37203; and a copy served on the United States Trustee's Office, 318 Customs House, 701 Broadway, Nashville, Tennessee 37203; and upon the Trustee in accordance with the Notice of Motion of the Trustee to Sell Property, the Trustee will proceed with the sale of the herein described property.

PROPERTY IS TO BE SOLD AS IS, WHERE IS. TRUSTEE WILL PAY EXEMPTIONS AND LIENHOLDERS AS FOLLOWS:

1st Lienholder: Chase Bank and Citizens Bank have properly perfected mortgages on this land. The buyer is buying subject to these mortgages.

Debtor(s) Statutory Exemption: Homestead exemption is not paid upon the conveyance of a survivorship interest. It is paid by the buyer in the event the Debtor's spouse dies and the Debtor's survivorship interest matures into a fee simple interest.

This sale does not include Personal Identifiable Information (PII).

It is anticipated that there is sufficient equity in the property to pay all 506(c) expenses and that this sale will result in a distribution being made to unsecured creditors.

This sale is an "arm's length" transaction. The Trustee, his employees and Bankruptcy court officials are prohibited from bidding.

WHEREFORE, the Trustee prays that the Court enter an Order authorizing him to proceed with the sale of this property pursuant to the provisions of 11 U.S.C. § 363 free and clear of all liens with the liens that may exist attaching to the proceeds of the sale.

The Trustee further prays that the 14 day stay of the sale of this property following the entry of this order as provided for in FRBP 6004(h) be waived.

Dated this 4th day of April, 2013.

Respectfully submitted,

/s/ John C. McLemore, Trustee

John C. McLemore, Trustee

Tn. Bar No. 3430

P.O. Box 158249

Nashville, TN 37215-8249

(615) 383-9495 (phone)

(615) 292-9848 (fax)

jmclmore@gmylaw.com

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ORDER TO SELL PROPERTY

Upon consideration of the motion of John C. McLemore, Trustee, for authority sell the following property:

Debtor's survivorship interest in a house and 24.43 acres more or less at 92 Harris Hollow Road, Pleasant Shade, Smith County, Tennessee.

The Motion and Proposed Order were served on the Debtor(s), Debtor's counsel, all creditors and all parties requesting notice. Each was given twenty-one (21) days to object. No objections have been filed with the Court;

And it appearing to the Court that the sale of property will be beneficial to the bankruptcy estate;

It is hereby

ORDERED that John C. McLemore, Trustee, is authorized to sell this property pursuant to the provisions of 11 U.S.C. § 363 free and clear of all liens with the liens that may exist attaching to the proceeds of the sale.

It is further **ORDERED** that the 14 day stay of the sale of this property following the entry of this order set out in FRBP 6004(h) is hereby **WAIVED**.

It is further **ORDERED** the Trustee will file a report of sale as required by FRBP 6004(f).

This Order was signed and entered electronically as indicated at the top of this page.

APPROVED FOR ENTRY:

/s/ John C. McLemore, Trustee

John C. McLemore, Trustee

Tn. Bar No. 3430

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Proposed

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CERTIFICATE OF SERVICE

I hereby certify that on the date noted below, a true and correct copy of the foregoing listed below was mailed either electronically or by U.S. mail, postage prepaid, to the U.S. Trustee, 701 Broadway, Customs House Suite 318, Nashville, TN 37203; Debtor, Dwight Dave Shepherd, 92 Harris Hollow Rd., Pleasant Shade, TN 37145; Debtor's attorney, Richard Dale Bohannon, 115 S. Dixie Ave., Cookeville, TN 38501-3401; all creditors, and all parties requesting notice, as reflected on the mailing matrix attached to the original of this pleading on file with the Clerk of this Court.

This 4th day of April, 2013.

Respectfully submitted,

/s/ John C. McLemore, Trustee

John C. McLemore, Trustee

Tn. Bar No. 3430

P.O. Box 158249

Nashville, TN 37215-8249

(615) 383-9495 (phone)

(615) 292-9848 (fax)

jmclmore@gmylaw.com

Attachments:

- (1) Notice of Motion of Trustee to Sell Property
- (2) Motion of the Trustee to Sell Property
- (3) Proposed Order to Sell Property

ATTN: 2012-CV-102
SMITH CO CIRCUIT COURT
322 JUSTICE DR STE 115
CARTHAGE TN 37030-1178

CHASE BANK
PO BOX 9001871
LOUISVILLE KY 40290-1871

CITIZENS BANK
PO BOX 195
CARTHAGE, TN 37030-0195

CITIZENS BANK
407 MAIN ST
CARTHAGE TN 37030-1207

DWIGHT DAVID SHEPHERD
92 HARRIS HOLLOW RD
PLEASANT SHADE, TN 37145-3007

RICHARD DALE BOHANNON
DALE BOHANNON
115 S DIXIE AVE
COOKEVILLE, TN 38501-3401

SUE SHEPHERD
92 HARRIS HOLLOW RD
PLEASANT SHADE TN 37145-3007

WILSON BANK & TRUST
1300 MAIN ST N
CARTHAGE TN 37030-1087

WILSON BANK & TRUST
PO BOX 768, 623 WEST MAIN STREET
LEBANON, TENNESSEE 37087-3400

WILSON BANK & TRUST
C/O BRANDEN BELLAR
PO BOX 332
CARTHAGE TN 37030-0332